

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
)  
The SCO GROUP, INC., et al.,<sup>1</sup> ) Case No. 07-11337 (KG)  
) (Jointly Administered)  
)  
Debtors. )

Hearing Date: March 7, 2008 at 2:00 p.m. Eastern Time  
Objection Deadline: February 29, 2008 at 4:00 p.m. Eastern Time

**DEBTORS' MOTION FOR ORDER ESTABLISHING  
A BAR DATE FOR FILING PROOFS OF CLAIM AND  
APPROVING THE FORM AND MANNER OF NOTICE THEREOF**

The above-captioned debtors-in-possession (collectively, the "Debtors"), by and through undersigned counsel, pursuant to Fed. R. Bankr. P. 3003(c)(3) and Del. Bankr. L.R. 2002-1(e), file this *Motion for Order Establishing a Bar Date for Filing Proofs of Claim and Approving the Form and Manner of Notice Thereof* (the "Motion") seeking entry of an order (i) establishing April 10, 2008 at 4:00 p.m. Eastern Time (the "Bar Date") as the final date and time by which all entities, including governmental units, must file proofs of claim in these chapter 11 cases; and (ii) approving the form and manner of notice of the Bar Date. In support of this Motion, the Debtors respectfully represent the following:

**Jurisdiction**

1. This Court has jurisdiction over these cases under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding within the meaning of 28 U.S.C. § 157(b)(2)(A).

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<sup>1</sup> The Debtors and the last four digits of each of the Debtors' federal tax identification numbers are as follows: (a) The SCO Group, Inc., a Delaware corporation, Fed. Tax Id. #2823; and (b) SCO Operations, Inc., a Delaware corporation, Fed. Tax ID. #7393.

2. The statutory bases for the relief sought herein are Bankruptcy Rule 3003(c)(3) and Del Bankr. L.R. 2002-1(e).

### **Background**

3. On September 14, 2007 (the “Petition Date”), the Debtors commenced these cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

4. Parties-in-interest and the Court are referred to the *Declaration of Darl C. McBride, Chief Executive Officer of the Debtors, in Support of First Day Motions* (the “McBride Declaration”) filed on the Petition Date and incorporated herein by reference for the factual background relating to the Debtors’ business and their commencement of these Chapter 11 Cases.

### **Relief Requested and Basis Therefor**

5. The Debtors request that the Court establish the Bar Date so the Debtors can obtain complete and accurate information regarding the nature, validity, and amount of all claims<sup>2</sup> that will be asserted in these chapter 11 cases. Consequently, the Debtors respectfully request that, pursuant to Bankruptcy Rule 3003(c)(3) and Del. Bankr. L.R. 2002-1(e), the Court (i) establish the Bar Date and related claims procedures proposed herein, and (ii) approve the form and manner of notice thereof.

#### **A. Bar Date**

6. Bankruptcy Rule 3003(c)(3) provides that “[t]he court shall fix and for cause shown may extend the time within which proofs of claim or interest may be filed.” Fed. R.

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<sup>2</sup> The term “claim” as used herein, has the meaning ascribed in section 101(5) of the Bankruptcy Code.

Bank. P. 3003(c)(3). Further, Local Rule 2002-1(e) provides that “[i]n all cases under chapter 11, the debtor may request a bar date for the filing of proofs of claim or interest.” Del. Bankr. L.R. 2002-1(e). The Bankruptcy Code, the Bankruptcy Rules and the Court’s Local Rules do not specify a time by which proofs of claim must be filed in chapter 11 cases other than the section 502(b)(9) provision governing the minimum 180 days after the petition date for governmental units. The circumstances of these reorganization cases justify fixing the bar dates as requested herein. The proposed Bar Date, April 10, 2008, is a date more than 180 days after the Petition Date.

7. By this Motion, the Debtors seek of an order, substantially in the form attached hereto as **Exhibit A** (the “Bar Date Order”) establishing the Bar Date as the final date and time for filing proofs of claim against the Debtors on account of claims arising, or are deemed to have arisen by virtue of section 501(d) of the Bankruptcy Code, prior to the Petition Date (the “Prepetition Claims”). The Debtors ask that the Bar Date apply to all entities, including governmental units (as defined in section 101(27) of the Bankruptcy Code). This comports with the 180-day statutory minimum for governmental units set forth in section 502(b)(9) of the Bankruptcy Code. Based upon the procedures set forth below, the proposed Bar Date will give all creditors ample notice and opportunity to file proofs of claim.

**B. Proofs of Claim**

8. The proposed Bar Date Order provides that all persons and entities holding Prepetition Claims, including, without limitation, the following entities, must file proofs of claim on or before the Bar Date:

- a. Any entity, including governmental units, whose Prepetition Claim against the Debtors is not listed in the Schedules or whose Prepetition Claim is listed as disputed, contingent, or unliquidated and that desires to participate in these chapter 11 cases or share in any distribution in these chapter 11 cases; and
- b. Any entity, including governmental units, that believes that its Prepetition Claim is improperly classified in the Schedules or is listed in an incorrect amount and that desires to have its claim allowed in a classification or amount other than that identified in the Schedules.

9. The Debtors propose that each proof of claim must substantially comply with Official Bankruptcy Form B10, attached hereto as **Exhibit B**. In addition, each proof of claim filed must: (i) be written in the English language; (ii) be denominated in lawful currency of the United States as of the Petition Date; and (iii) attach copies of any writings upon which the claim is based in accordance with Bankruptcy Rules 3001(c) and 3001(d).<sup>3</sup> All proofs of claim must be originally executed and actually received on or before the Bar Date by Epiq Bankruptcy Solutions, LLC (“Epiq”), the Court-approved claims and noticing agent in these chapter 11 cases, at the following address: Epiq Bankruptcy Solutions, LLC, FDR Station, P.O. Box 5012, New York, NY 10150-5012. Proofs of claim must either be mailed or delivered by messenger or overnight courier. Proofs of claim sent by facsimile, telecopy, or e-mail will not be accepted. Proofs of claim will be deemed timely filed only if actually received by Epiq on or before the Bar Date.

10. Pursuant to the proposed Bar Date Order, the following persons or entities are not required to file a proof of claim on or before the Bar Date:

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<sup>3</sup> Bankruptcy Rule 3001(c) requires as follows: “When a claim, or an interest in property of the debtor securing the claim, is based on a writing, the original or a duplicate shall be filed with the proof of claim. If the writing has been lost or destroyed, a statement of the circumstances of the loss or destruction shall be filed with the claim.” Bankruptcy Rule 3001(d) requires that “[i]f a security interest in property of the debtor is claimed, the proof of claim shall be accompanied by evidence that the security interest has been perfected.”

- a. Any person or entity that has already properly filed with Epiq a proof of claim against the Debtors utilizing a claim form which substantially conforms to Official Form B10;
- b. Any person or entity (i) whose claim is listed on the Schedules, (ii) whose claim is not described as “disputed,” “contingent,” or “unliquidated,” and (iii) who does not dispute the amount or nature of the claim for such person or entity as set forth in the Schedules;
- c. Professionals retained by the Debtors or the Committee pursuant to orders of this Court who assert administrative claims for fees and expenses subject to the Court’s approval pursuant to sections 330, 331, and 503(b) of the Bankruptcy Code;
- d. Current officers and directors of the Debtors who assert claims for indemnification and/or contribution arising as a result of such officers’ or directors’ prepetition or postpetition services to the Debtors;
- e. Any person or entity that asserts an administrative expense claim against the Debtors pursuant to section 503(b) of the Bankruptcy Code;
- f. Any person or entity whose claim has been paid by the Debtors;
- g. Any Debtor asserting a claim against another Debtor;
- h. Any direct or indirect non-debtor subsidiary of a Debtor asserting a claim against a Debtor; and
- i. Any person or entity that holds a claim that has been allowed by an order of this Court entered on or before the Bar Date, or claims, if any, arising from the rejection of an executory contract or unexpired lease the Bar Date for which is governed by separate order(s) of the Court.

11. Pursuant to Bankruptcy Rule 3003(c)(2), the Debtors propose that any holder of a claim against the Debtors who is required, but fails, to file a proof of such claim in accordance with the Bar Date Order on or before the Bar Date shall be forever barred, estopped, and enjoined from asserting such claim against the Debtors (or filing a proof of claim with respect thereto), and the Debtors and their property shall be forever discharged from any and all

indebtedness or liability with respect to such claim, and such holder shall not be permitted to vote to accept or reject any chapter 11 plan or participate in any distribution in the Debtors' chapter 11 cases on account of such claim or to receive further notices regarding such claim.

**C. Notice Procedures**

12. The Debtors propose to serve on all known entities holding potential Prepetition Claims: (a) a notice of the Bar Date substantially in the form of the Bar Date Notice attached hereto as **Exhibit A** and incorporated herein by reference; (b) a proof of claim form substantially in the form of Official Form B10, attached hereto as **Exhibit B** (the "Proof of Claim Form"), and (c) the Bar Date Order (together with the Bar Date Notice and the Proof of Claim Form, the "Bar Date Notice Package").

13. Five (5) business days after the entry of the Bar Date Order, the Debtors intend to provide notice of the Bar Date by mailing a Bar Date Notice Package by United States mail, first-class postage prepaid, to the following persons and entities:

- a. The Office of the United States Trustee for the District of Delaware;
- b. All persons and entities who have requested notice pursuant to Bankruptcy Rule 2002 as of the date of the Bar Date Order;
- c. All persons or entities listed in the Schedules at the addresses set forth therein;
- d. All known parties to executory contracts or unexpired leases with the Debtors;
- e. All known holders of equity securities in the Debtors as of February 22, 2008;
- f. All taxing authorities for the jurisdictions in which the Debtors maintained or conducted business during the year prior to the Petition Date;

- g. All known holders (and, where known, their counsel) of Prepetition Claims against the Debtors;
- h. All entities that are parties to any litigation in which the Debtors are a party (and, where known, their counsel);
- i. All indenture trustees;
- j. The District Director of the Internal Revenue Service for the District of Delaware; and
- k. The Securities and Exchange Commission.

14. Furthermore, the Debtors have determined that it would be in the best interest of their estates to give notice by publication to certain creditors including: (a) those creditors to whom no other notice was sent and who are unknown or not reasonably ascertainable by the Debtors; (b) known creditors with addresses unknown by the Debtors; and (c) creditors with potential claims unknown by the Debtors. Accordingly, the Debtors intend to provide notice of the Bar Date by causing a copy of the notice attached hereto as Exhibit C (the “Publication Notice”) to be published once in the Salt Lake Tribune, the Salt Lake Tribune & Deseret, and The Wall Street Journal, National Edition at least twenty-five (25) days prior to the Bar Date. In the Debtors’ judgment, this publication is likely to reach the widest possible audience of creditors who may not otherwise have notice of these chapter 11 cases.

15. The Bar Date Notice and the Publication Notice will: (i) set forth the Bar Date; (ii) advise creditors under what circumstances they may file a proof of claim in respect of a Prepetition Claim under Bankruptcy Rules 3002(c)(2) and 3003(c)(3) or an order of this Court, as applicable; (iii) alert creditors to the consequences of failing to timely file a proof of claim, as set forth in Bankruptcy Rule 3003(c)(2) or an order of this Court, as applicable; (iv) set forth the address to which proofs of claim must be sent for filing; and (v) notify creditors that (a) proofs of

claim must be filed with original signatures, and (b) facsimile or e-mail filings of proofs of claim are not acceptable and are not valid for any purpose. The Debtors submit that the Bar Date Notice and the Publication Notice will provide creditors with sufficient information to file properly prepared and executed proofs of claim in a timely manner.

16. The Debtors submit that establishing April 10, 2008 as the Bar Date in these chapter 11 cases will provide potential claimants with an adequate amount of time after the mailing of the Bar Date Notice Package and the printing of the Publication Notice within which to review the Schedules, compare the information contained therein with their own books and records and, if necessary, prepare and file proofs of claim. The Debtors also submit that the Bar Date Notice and Publication Notice in the forms and manners as proposed by the Debtors herein are fair and reasonable and will provide good, sufficient, and due notice to all creditors, including creditors with foreign addresses, and interest holders of their rights and obligations in connection with claims they may assert against the Debtors' estates in these chapter 11 cases.

#### Notice

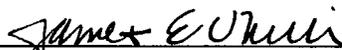
17. Notice of this Motion has been or will be given to the following parties or, in lieu thereof, to their counsel, if known: (i) the Office of the United States Trustee; (ii) the creditors holding the 20 largest unsecured claims against the Debtors' estates (on a consolidated basis); and (iii) any party which has filed a request for notices with this Court prior to the date of

this Motion. The Debtors submit that, in light of the nature of the relief requested, no other or further notice need be given.

WHEREFORE, the Debtors respectfully request that this Court enter an order, substantially in the form attached hereto, granting the relief requested herein and such other and further relief as this Court deems appropriate.

Dated: February 7, 2008

PACHULSKI STANG ZIEHL & JONES LLP

  
\_\_\_\_\_  
Laura Davis Jones (Bar No. 2436)  
James E. O'Neill (Bar No. 4042)  
Rachel Lowy Werkheiser (Bar No. 3753)  
919 North Market Street, 17th Floor  
P.O. Box 8705  
Wilmington, DE 19899-8705 (Courier No. 19801)  
Telephone: (302) 652-4100  
Facsimile: (302) 652-4400  
Email: ljones@pszjlaw.com  
joneill@pszjlaw.com  
rwerkheiser@pszjlaw.com

and

BERGER SINGERMAN, P.A.  
Paul Steven Singerman  
Arthur J. Spector  
Grace E. Robson  
200 South Biscayne Blvd., Suite 1000  
Miami, FL 33131  
Telephone: (305) 755-9500  
Facsimile: (305) 714-4340  
and  
350 E. Las Olas Boulevard, Suite 1000  
Fort Lauderdale, FL 33301  
Telephone: (954) 525-9900  
Facsimile: (954) 523-2872  
Email: singerman@bergersingerman.com  
aspector@bergersingerman.com  
grobson@bergersingerman.com

Co-Counsel for the Debtors and Debtors-in-Possession